

Hand-Delivered

UNITED STATES DISTRICT COURT

FOR THE

WESTERN DISTRICT OF NORTH CAROLINA

FILED  
CHARLOTTE, NC

AUG 08 2023

US DISTRICT COURT  
WESTERN DISTRICT OF NC

Poppi Kush Swindell

Plaintiff,

vs.

Charlotte-Mecklenburg Board of Education

Defendant.

)

)

) **Case No. 3:21-CV-00676-FDW-DCS**

)

) **ANSWER TO THE DEFENDANT'S**

) **MOTION FOR EXTENSION**

) **OF TIME TO REPLY**

**The Plaintiff is strongly opposed to the Defendant's motion for an extension of time to reply.**

**Plaintiff's Answers to Defendants' Statements**

The Defendant Charlotte-Mecklenburg Board of Education ("Defendant"), by and through undersigned counsel, states as follows:

1. On December 20, 2021, Plaintiff filed an employment discrimination Complaint against Defendant.

**PLAINTIFF AGREES.**

2. On April 21, 2022, Plaintiff amended his Complaint, which Defendant answered Plaintiff's Amended Complaint on May 12, 2022.

**PLAINTIFF GAVE NO RESPONSE.**

3. On June 29, 2022, Plaintiff filed another employment discrimination Complaint against Defendant, which Defendant answered on July 26, 2022. See Poppi Swindell v. Charlotte Mecklenburg Board of Education, No. 3:22-cv-00291-FDW-DCK.

**PLAINTIFF DENIED IN PART. Plaintiff did file claim No. 3:22-cv-00291-FDW-DCK, but Defendant did not answer the complaint in a timely manner and was in default, causing Plaintiff to submit a motion for default.**

4. On April 20, 2023, this Court consolidated the 3:22-cv-00291-FDW-DCK case with this Case 3:21-cv-00676-FDW-SCR Document 34 Filed 08/07/23 Page 1 of 4 matter. (Doc. 25.)

**PLAINTIFF GAVE NO RESPONSE.**

5. On May 31, 2023, this Court issued the Case Management Order. (Doc. 30.)

**PLAINTIFF AGREES.**

6. On July 26, 2023, Plaintiff filed a Motion for Leave to Amend Complaint, along with his second proposed amended complaint, alleging that Plaintiff discovered that “vital parts of his claim were either not fully stated in his complaint or not made clear.” See Doc. 31, pg. 2.

**PLAINTIFF GAVE NO RESPONSE.**

7. In the proposed amended complaint, Plaintiff appear to add a number of additional causes of action for discrimination in employment pursuant to: (1) N.C.G.S. § 168A-4; (2) N.C.G.S. § 168A-10; (3) N.C.G.S. § 95-240; (4) N.C.G.S.

§ 95-241. Plaintiff further alleges that the discriminatory conduct of which he complains includes “defamation of character (libel)”.

**PLAINTIFF DENIES IN PART. The Defendant's statement that a number of additional causes are stated, is denied. The Plaintiff has clarified the claims, the same claims that have been expressed from the filing with the EEOC and the original claims, with the addition of the prior claim, 3:22-cv-00291-FDW-DCK, which was consolidated into the initial claim. All other issues were just more clearly stated as well as the federal or state statutes were expressed.**

8. On July 27, 2023, Plaintiff filed a letter requesting the Court to amend the case management track to “Simple/Fast” track. (Doc. 33.)

**PLAINTIFF AGREES.**

9. Defendant’s deadline to file a response to Plaintiff’s filings is August 9 and August 10, 2023, respectively.

**PLAINTIFF GAVE NO RESPONSE.**

10. Defendant asks the Court for an additional thirty (30) days to file a response to both of Plaintiff’s filings.

**PLAINTIFF IS STRONGLY OPPOSED. The Plaintiff's mental and physical well-being will be negatively impacted by the extremely long delay. We respectfully request the court deny the extension and request the court to**

**require the Defendant to comply with the stated deadline since no extenuating circumstances are causing a need for additional time.**

11. On August 4, 2023, Defendant conferred with Plaintiff regarding this Motion and the relief requested herein; however, Defendant has not yet responded regarding his consent.

**PLAINTIFF DENIES**

**Plaintiff received the email request from Defendant on Friday, August 4, 2023, at 9:37 AM.**

Mr. Swindell,  
I've received the motions you filed. I need additional time to respond and am planning to ask the Court for an extension of time. In accordance with the rules, seek your consent for the extension of time to respond.  
Please advise.

Thank you,  
Oksana Cody

**Plaintiff responded to Defendant by email on Saturday, August 5, 2023, at 2:14 PM with the following:**

"Ms. Cody,

I received your email informing me of your requesting the court for an extension of time to reply. Before responding I will need to receive the following information from you.

What is the reason for the request for an extension of time to answer the motions?

How long an extension are you requesting?

Will you be opposing both or either of my Motions?



How does the additional time serve justice?”

**On Monday, August 7, 2023, at 9:02 AM, the Plaintiff received:**

“Mr. Swindell,

You added five additional causes of action and I am requesting additional thirty days to respond.

Please advise.

Oksana Cody”

**On Monday, August 7, 2023, at 1:11 PM, before being able to respond,**

**Plaintiff received this notice that Defendant had already filed an extension.**

Dear Mr. Swindell,

Attached please find Defendant Charlotte-Mecklenburg Board of Education’s Motion for Extension of Time to File Response in the above referenced matter. A hard copy of the same will be mailed.

Regards,

Tanya L. Pharr, NCCP

Paralegal

**On Monday, August 7, 2023, at 2:39 PM, I again replied to the defendant.**

“Ms. Cody,

Based on the lack of information given I will not be able to support your request for an extension of time to answer the motions.

Respectfully,  
Poppi Swindell”

## Summary

No valid reason has been given by the defendant's counsel to the plaintiff nor the court for the needed extension of time. The defendant has at some point already addressed all or most of the charges brought out in the Plaintiff's updated complaint and should not need extra time to reissue their opposition to the motions. The plaintiff is a pro se litigate who is under the same rules and deadlines as the Defendant. Defendant's counsel is a licensed attorney who has years of training and years of experience drafting these types of responses, a number of staff to assist in the research, law libraries at their disposal, and colleagues that they can tap into as knowledgebase for assistance in their responses. Plaintiff, on the other hand, has access to "Google search", no attorney or staff, no colleagues, no law libraries, and no law degree. How is this affecting justice to grant Defendant an additional 30 days to reply to what I understand is a standard motion? Defendant was aware Plaintiff was submitting a motion for change to fast/simple case management because Plaintiff informed Defendant. Defendant should have known or should have expected that Plaintiff would or could also submit an updated claim because of the consolidation of the second case with the first, and the deadline to submit the motion was set in the schedule, Defendant should not have been caught off guard by the Plaintiff motions.

**The plaintiff strongly and respectfully opposes the issuance of additional time to the defendant to answer the aforementioned motions.**

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "M. Smith", is written over a horizontal line.

Plaintiff